



State of Ohio Environmental Protection Agency

Southeast District Office

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Columbus, OH 43138

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Bob Taft, Governor
Christopher Jones, Director

September 16, 2002

RE: BELMONT COUNTY
WPS-MARTINS FERRY
RCRA-LQG
OHD010448231

CERTIFIED MAIL: 7000 1670 0011 7996 9418

Mr. Bud Smith
Environmental Director
Wheeling Pittsburgh Steel Corporation
1134 Market Street
Wheeling, West Virginia 26003

Dear Sir:

On November 7 and 14, 2001, Ohio EPA conducted a compliance inspection of Wheeling Pittsburgh Steel Corporation's (WPSC) Martins Ferry Plant. The inspection was conducted to determine WPSC's compliance with Ohio's hazardous waste laws and regulations, as found in the Ohio Revised Code and Ohio Administrative Code (ORC and OAC, respectively).

Based on the observations from this inspection, Ohio EPA issued a Notice of Violation letter to WPSC on December 12, 2001. Your response to this letter was received on April 24, 2002.

Based on the photographs and revised contingency plan provided with the April 2002 response, WPSC has returned to compliance with the following regulations:

- i. Management of containers, OAC Rule 3745-66-73;
- ii. Used oil storage requirements for generators, OAC Rule 3745-279-22;
- iii. Amendment of contingency plan, OAC Rule 3745-65-54

WPSC remains in violation of the following regulations:

1. **Prohibitions** ORC Rule 3734.02(E)&(F): No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter...

During the 1999 inspection, out-of-service equipment (the ARCO system duct work) containing hazardous waste was discovered in the "lay-down" yard, north of the Plant #1 building. Based on Ohio EPA's request for waste evaluation, this waste was found to be hazardous for lead and disposed as hazardous waste. Subsequently, WPSC identified more of this waste, which was stored in the northern portion of the lay-down yard, and placed it into a roll-off box and disposed of this additional hazardous waste (estimated at 4000 pounds) on July 2, 2001. I understand, based on discussions with WPSC personnel, that this

ARCO system was removed or taken out-of-service in 1989 or 1990, prior to the installation of the current dry scrubber. Based on your air permit, this current scrubber system was installed in June 1990. Based on this information, WPSC has stored this hazardous waste illegally from at least June 1990 until July 2, 2001.

Your April 2002 response discusses the regulatory status of the out-of-service equipment stored in this area and the definition of "waste" in Ohio EPA's rules. Ohio EPA has no concern regarding the equipment per se; however, when equipment is taken out-of-use, any residues left in it are considered waste and are subject to regulation. This is made clear in the Definition of Waste, OAC rule 3745-51-02(B)(3), "Materials are waste if they are abandoned by being: Accumulated, stored or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated." Your response also implies that USEPA does not support Ohio EPA's position on this waste, this is an incorrect assumption.

In order to demonstrate abatement of this violation, WPSC must demonstrate that no contamination remains from the ARCO scrubber waste that was stored at the lay-down yard (**in an area directly adjacent to the local public wellfield**). To make this demonstration, closure of this storage area in accordance with the requirements of OAC rules 3745-66-10 through 3745-66-20 (including submittal and implementation of an approved closure plan) is required. Additionally, WPSC must draft and implement waste management procedures, as discussed in the Maintenance and Operation of facility violation cited below, to ensure that storage longer than 90 days will not recur. This facility will be subject to all applicable TSD standards as set forth in OAC Chapters 3745-65 through 3745-65-69 until WPSC demonstrates that the closure standards in OAC rule 3745-66-11 have been attained through the implementation of an approved closure plan (see #7, below).

2. **Hazardous Waste Determination**, OAC Rule 3745-52-11: Any person who generates a waste in the State of Ohio shall determine if that waste is a hazardous waste using the following method: first determine if the waste is excluded from regulation under OAC Rule 3745-51-04, then determine if the waste is listed as a hazardous waste in OAC Rule 3745-51-30 to -35, and then determine if the waste is identified in OAC Rule 3745-51-20 to -24 by testing the waste using the methods in OAC Rule 3745-51-20 to -24 or by applying knowledge of the waste.

WPSC has not provided documentation of waste evaluations for the following wastes: A) paint waste in the former paint booth in Plant #1, and B) the waste ink (used for marking steel).

Your April 2002 response stated that the waste paint (in A above) in the former paint booth is not waste and will be evaluated when it becomes waste. As stated in #1 above, residues in unused equipment or process lines become waste and are subject to regulation. For item

B) above, your response provided a waste profile from 1994 for waste paint generated from "Building Maintenance". The waste evaluation requested is for the ink or paint from marking the rolled steel. WPSC will demonstrate compliance with this rule once these evaluations and the supporting documentation are received by this office.

3. **Purpose and implementation of contingency plan**, OAC Rule 3745-65-51(B): The provisions of the contingency plan shall be implemented immediately whenever there is a fire, explosion, or release (any unplanned, sudden or non-sudden release) of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

WPSC has not demonstrated that they implemented their contingency plan when they found that the ARCO scrubber waste (D008) had been released onto the ground near a storm drain and that this condition may be causing off-site soil or water contamination. Your April 2002 response contends that this condition presented no threat to human health or the environment. Ohio EPA strongly disagrees with this assumption, see scenario # 4 in the attached Fact Sheet #DHWM-R014. This violation will be abated once WPSC demonstrates that facility personnel have been properly trained on implementing the contingency plan whenever any hazardous waste is released to air, soil or surface water that could cause off-site contamination, also see #15 (D) below.

4. **Emergency procedures**, OAC Rule 3745-65-56(J):... Within fifteen days after the incident (that requires implementation of the contingency plan), the owner or operator shall submit a written report on the incident to the director. The report shall include: 1) Name, address and telephone number of the owner or operator; 2) Name, address and telephone number of the facility; 3) Date, time and type of incident; 4) Name and quantity of material(s) involved; 5) The extent of injuries (if any); 6) An assessment of actual or potential hazards to human health or the environment, where this is applicable; 7) Estimated quantity and disposition of recovered material that resulted from the incident; and 8) Any other information the director may require.

WPSC did not report the release of the ARCO scrubber waste (D008) in the lay-down yard. The April 2002 response to this violation again incorrectly assumes that implementing the contingency plan and emergency procedures was not warranted for the potential release of D008 waste to surface water. To demonstrate compliance with this rule, provide the required report, with all required information, to the director and to this office.

5. **Accumulation time of hazardous waste**, OAC Rule 3745-52-34(C)(1): A generator may accumulate up to 55 gallons of hazardous wastes ...in containers at or near the point of generation where the wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit and without complying with paragraph A of this rule...

WPSC is storing hazardous waste (gasoline free-product from a monitoring well) in a open storage building which is not under the control of the operator. The April 2002 response states that this drum has been moved to the < 90 day storage area and will be manifested off-site but no documentation was provided. To demonstrate compliance, WPSC must provide documentation which shows that this waste has been properly manifested off-site.

6. **Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities**, OAC Rule 3745-270-07(A)(7) & (A)(8): (A)(7) If a generator determines he is managing a prohibited waste that is excluded from the definition of hazardous waste or waste, or is exempt from regulation as a hazardous waste under rules 3745-51-02 to 3745-51-06 of the OAC subsequent to the point of generation...including wastes managed in wastewater treatment systems subject to CWA... he shall place in the generator's files a one-time notice describing such generation, subsequent exclusion...or exemption from regulation...and the disposition of the waste; (A)(8) Generators shall retain on-site a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this rule for at least three years from the date that the waste that is subject to this documentation was least sent to on-site or off-site treatment, storage or disposal.

A) WPSC has not provided a copy of the required one-time notification for the acid and alkali baths and sludges (D002) which are treated in WPSC's WWTP. The April 2002 response states that these wastes are treated in their WWTP and thus exempt from RCRA regulation. In OAC rule 3745-51-04(A)(2), the exclusion covering industrial wastewater discharges explains that "This exclusion applies only to the actual point discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment." Compliance can be demonstrated by submitting a copy of the required notifications to this office.

B) WPSC does not maintain this documentation on-site but at their Wheeling, WV office. In addition to the waste evaluations cited above under Waste Determination (as cited in #2 above), copies of all waste evaluations, certifications, and notices must be maintained on-site as stated above. This includes the notice for the treatment of the acid and alkali sludges in the WWTP. The April 2002 response asks whether

Ohio EPA can grant a variance from this rule since WPSC could provide the documentation during an inspection with advance notice. **Insert 02G Language here and why its unlikely to be granted.** WPSC will demonstrate compliance with this rule once this office has received the specific documentation cited and WPSC demonstrates that this documentation will be maintained on-site.

7. **Closure Plan**, OAC Rule 3745-66-12(A): The owner or operator of a hazardous waste management facility shall have a written closure plan.

WPSC does not have a closure plan for the lay-down yard hazardous waste storage area. A formal closure plan is warranted based on the period of storage, the contaminant involved (lead), the release potential (the waste was not stored in closed containers) and data indicating the presence of lead in the nearby storm drain basin and rinsewater data from the 1996 closure which was performed adjacent to this area. The April 2002 response states that WPSC does not believe this rule is appropriate based on the definition of waste, please see #1 above. This closure plan should be prepared in accordance with Ohio EPA's Closure Plan Review Guidance for RCRA Facilities, March 1999. This violation will be abated once the closure plan for this area is received by this office and Ohio EPA's Central Office.

8. **Time allowed for closure**, OAC Rule 3745-66-13(B): The owner or operator shall complete partial and final closure activities in accordance with the approved closure plan and within one hundred eighty days after...approval of the closure plan.

WPSC's closure plan was approved with modifications on April 24, 2000; therefore, the closure activities should have been completed by October 24, 2000. WPSC will demonstrate compliance with this rule once all closure activities have been completed in accordance with the plan.

9. **Security**, OAC Rule 3745-65-14:(C) Unless exempt under paragraph (A)(1) and (A)(2) of this rule, a sign with the legend "Danger-Unauthorized Personnel Keep Out" shall be posted at each entrance to the active portion of the facility, and at other locations, in sufficient numbers to be seen from any approach to this active portion.

During the inspection, we observed evidence that trespassers were in portions of the facility where hazardous wastes are stored. The April 2002 response states that this rule applies to waste management areas and even though the ARCO waste has been removed WPSC stated they will post the signs anyway, but documentation was not provided. Until closure, per an approved closure plan, this area remains a regulated waste unit and these regulations apply. To demonstrate compliance with this rule, provide photographs showing that the required signs have been posted in the appropriate locations.

10. **General inspection requirements**, OAC Rule 3745-65-15: (A) The owner or operator must inspect the facility for malfunctions and deterioration, operator errors, and discharges which may be causing or which may lead to release of hazardous waste constituents to the environment or that cause a threat to human health. (B) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices....(D) The owner operator must record inspections in an inspection log or summary.

WPSC has not developed a written schedule for facility inspections and does not perform these inspections. The April 2002 response states that this rule does not apply to generators who are in compliance with OAC rule 3745-52-34. This statement is correct, however, WPSC was not in compliance with this rule, specifically, the ARCO scrubber waste was not accumulated in a tank, container or containment building nor was it accumulated within the allowed timeframe (less than 90 days). WPSC will demonstrate compliance with this rule once the written schedule containing all necessary information and a month's-worth of the completed logs or summaries of the inspections are received.

No actions are required at this time for the following violations(#10 & #11, below) cited during the 2001 inspection. These will be abated once WPSC completes the activities contained in an approved closure plan for the lay-down area.

10. **General waste analysis**, OAC rule 3745-65-13;
11. **Operating record**, OAC rule 3745-65-73.

On June 8 to 11, 1999, Ohio EPA and USEPA conducted a multi-media compliance inspection of this facility. Based on the information provided and observations made during the inspection, Ohio EPA sent a Notice of Violation (NOV) to WPSC on August 26, 1999. Ohio EPA received WPSC's response on December 13, 1999. A second NOV was issued on June 30, 2000. A partial response, pertaining to the ARCO scrubber waste was received on December 4, 2000. A third NOV was issued March 19, 2001, and the response to the third NOV was received on April 23, 2001. The fourth NOV was sent on August 2, 2001; however, no response was received. A fifth NOV was sent on September 19, 2001. A response to that letter was received on October 15, 2001; however, it contained insufficient information and no documentation to demonstrate compliance for any of the cited violations.

The following violations remain outstanding from the June, 1999 inspection:

12. **Personnel training**, OAC Rule 3745-65-16(A)(2)&(3),(B)&(D): (A) This program...shall include instruction...including, but not limited to, contingency plan implementation. (B) Facility personnel shall successfully complete the training program within six months after date of employment or assignment to the facility, whichever is later. (D) The owner/operator shall maintain the following training documents and records at the facility: job title and the employee's name for each position related to hazardous waste management; written job description for each position; a written description of type and amount of both introductory and continuing training that will be given each person filling a position; and records demonstrating that the training required under this rule has been given to, and completed by, facility personnel.

A) WPSC's December 1999 response provided some job titles/descriptions for some

personnel at this plant. However, no job title/description was provided for the following personnel whose duties include those related to waste management activities or to actions taken during emergencies (such as releases/implementation of the contingency plan): the plant's environmental coordinator, other plant management personnel, personnel who complete manifests and LDR forms and plant guards. The April 2001 and April 2002 responses did not specifically address this requirement.

- B) No documentation has been provided which indicates that WPSC maintains a written description of the type and amount of introductory and continuing training given to each person filling a position, which is required to receive this training under part D(1) of this rule. The December 1999 and April 2001 responses did not specifically address this requirement. To demonstrate compliance, a copy of the training records for an affected employee should be provided to this office.
 - C) WPSC has not provided documentation which indicates that employees, either new employees or ones who have recently been assigned to positions which are required to receive this training, have received this training prior to working in unsupervised positions, as required by part (B) of this rule. The December 1999, April and October 2001, and April 2002 responses did not specifically address this requirement. To demonstrate compliance, WPSC should provide: 1) a statement that this training will be provided to the affected employees and 2) documentation which demonstrates that some tracking system is being used which indicates when these employees have received this training.
 - D. During the November 2001 inspection, WPSC provided written documentation for training held in February of 2001. The documentation for training held in Oct/Nov was not yet available. However, this documentation did not cite all the required training subjects as listed in this rule, specifically, contingency plan implementation. This information must be included in the training program, as required in part (A)(2) of this rule. The December 1999, April 2001, and April 2002 responses did not specifically address this requirement. An outline or summary of the training that indicates that the required information was provided to employees would be sufficient to demonstrate compliance with this portion of this rule.
16. **Maintenance and operation of facility**, OAC Rule 3745-65-31: Facilities shall be maintained and operated to minimize the possibility of a fire, explosion or any release of hazardous waste constituents to air, soil or surface water.
- A. At the time of the June 1999 inspection, WPSC had accumulated at least five different wastes in a remote portion of the facility, north of the Plant #1 building. These wastes had not been evaluated, labeled, dated or been placed into proper containers. In response to Ohio EPA's concerns voiced during the June 1999 inspection, WPSC sampled the wastes. One waste, from the former ARCO scrubber

system was determined to be a D008 waste. This waste was not in a container and some of the waste had washed onto the ground and possibly into a nearby storm drain. Similar violations regarding hazardous waste storage were discovered during the September 1994 inspection. Several unidentified wastes, including at least 4 drums of hazardous waste, were stored in this same area for an unknown time period. WPSC's December 1994 response stated that a guard is used to control access to this area and that "the plant environmental contact" is responsible for materials placed in this area. The statement in the April 2001 response, that "plant personnel have been reminded to prevent exposure of waste materials to the environment" is not adequate to abate this violation. Based on the violations cited in the 1994 and 1999 hazardous waste inspections, it is obvious that the controls WPSC have used to identify, evaluate and manage wastes at this plant are inadequate.

The April 2002 response states that WPSC believes that this rule does not apply to this facility but that WPSC is drafting ISO 14001 procedures for overall waste management at all WPSC plants; however, no documentation was provided. Compliance with this rule will be demonstrated when WPSC provides documentation to this office which indicates that this plant has implemented procedures for properly identifying, evaluating and managing all wastes that are generated on-site and for decontaminating tanks or other equipment which may contain hazardous wastes when they are taken out-of-service.

- B. During the inspection, extensive staining (see attached photograph) was observed under the process line where Chemtreat is applied to the steel. The April 2002 response states that these are "de minimus losses". The exemption in OAC rule 3745-51-03 (A) for these types of losses applies to discarded chemical products or chemical intermediaries listed in OAC rule 3745-51-33. Since WPSC manages this wastestream as D007, this exemption would not apply. The April response also states that these spills have floor dry applied to them and it is collected sometime later after saturation. This is same inadequate. The leakage/spillage must be cleaned up in a more timely manner and leaks, if present, must be repaired promptly. To document compliance, appropriate procedures for addressing these spills must be drafted and either posted at the Chemtreat equipment or the employees responsible for this area must be trained on these procedures and copies of these procedures and either training records or photographs of the procedures posted in this area must be received by this office.

General Comment

- A. Please note that WPSC is required to provide a closure cost estimate and establish financial assurance for the SPL Tank System closure pursuant to OAC Rule 3745-66-40 et seq. These requirements apply to unpermitted Treatment, Storage or Disposal Facilities (TSDFs). If you have questions regarding closure cost estimates and financial assurance requirements, please contact Issac Wilder at Ohio EPA's Central Office, (614) 644-3067.

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Failure to list specific deficiencies or violations in this letter does not relieve WPSC from the responsibility of complying with all applicable regulations. This letter does not relieve WPSC from liability for any past or present violations of the State's hazardous waste laws and regulations. If you have any questions regarding pollution prevention or recycling, please refer to the Office of Pollution Prevention's website at www.epa.state.oh.us/opp/.

Response to this letter should be provided within 30 days from the date of this letter. Should you have any questions concerning the above, please call me at (740) 380-5278.

Sincerely,



Richard Stewart
District Representative
Division of Hazardous Waste Management

Attachment

RS/lp

cc: Harry Page, WPSC-Wheeling, WV
Pat Smith, WPSC-Steubenville South

cc: w/o attachment:

Tammy McConnell, DHWM, CO
Jim Kavalec, DHWM, CO
Issac Wilder, DHWM, CO
Gregory Poulos, AGO
Robert D. Smith, USEPA Region V